



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2013-0039]

RIN 1625-AA00

Safety Zone; Vigor Industrial Roll-Out, West Duwamish Waterway,
Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the West Duwamish Waterway in Seattle, Washington for a vessel roll-out at Vigor Industrial. The safety zone is necessary to ensure the safety of the maritime public and workers involved in the roll-out. The safety zone will prohibit any person or vessel from entering or remaining in the safety zone unless authorized by the Captain of the Port or a Designated Representative.

DATES: This rule is effective on February 28, 2013 from 2:00 a.m. until 10:00 a.m.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2013-0039]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on

the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ensign Nathaniel P. Clinger, Waterways Management Division, Coast Guard Sector Puget Sound, Coast Guard; telephone 206-217-6045, e-mail SectorPugetSoundWWM@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause

exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable to do so. Delaying promulgation may result in injury or damage to persons and vessels since the roll-out event is scheduled to occur before a comment period would end and a Final Rule could be published.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date until 30 days after publication would be impracticable, as this delay would eliminate the safety zones' effectiveness and usefulness in protecting persons, property, and the safe navigation of maritime traffic during the 30-day period.

B. Basis and Purpose

Vigor Industrial is conducting a vessel roll-out in the West Duwamish Waterway in Seattle, Washington on February 28, 2013. Due to the dangers involved with a large slow moving dry dock that will be maneuvering close to the shore, the Coast Guard is establishing a temporary safety zone to ensure the safety of the workers involved as well as the maritime public.

C. Discussion of the Final Rule

The safety zone helps ensure the public's safety during a vessel roll-out that will take place on February 28, 2013 in the waters of the West Duwamish Waterway. The safety zone created by this rule encompasses all waters of the West Duwamish Waterway in

Seattle, Washington within the area created by connecting the following points: 47°35'04"N, 122°21'30"W thence westerly to 47°35'04"N, 122°21'50"W thence northerly to 47°35'19"N, 122°21'50"W thence easterly to 47°35'19"N, 122°21'30"W thence southerly to 47°35'04"N, 122°21'30"W. Geographically, the safety zone is adjacent to the northern tip of Harbor Island in Seattle, WA.

All persons and vessels will be prohibited from entering or remaining in the safety zone. The safety zone will be effective on February 28, 2013 from 2:00 a.m. to 10:00 a.m. unless cancelled sooner by the Captain of the Port or a Designated Representative. The safety zone will be enforced by the U.S. Coast Guard. The Captain of the Port may also be assisted in the enforcement of this safety zone by other federal, state, or local agencies.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3)

of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this finding based on the fact that the safety zone is limited in duration, and maritime traffic may be able to transit through the safety zone with permission of the Captain of the Port or a Designated Representative.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through the safety zone created by this rule. This rule will not have a significant economic impact on a substantial number of small entities, although the safety zone will apply to the entire width of the waterway, the zone will be enforced for a limited period of time, and vessel traffic will be allowed to pass through the safety

zone with the permission of the Captain of the Port or a Designated Representative.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

Part 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Add § 165.T13-241 to read as follows:

§ 165.T13-241 Safety Zone; Vigor Industrial Vessel Roll-Out, West Duwamish Waterway, Seattle, WA

(a) Location. The following area is a safety zone: All waters of the West Duwamish Waterway in Seattle, WA encompassed within the area created by connecting the following points: 47°35'04"N, 122°21'30"W thence westerly to 47°35'04"N, 122°21'50"W thence northerly to 47°35'19"N, 122°21'50"W thence easterly to 47°35'19"N, 122°21'30"W thence southerly to 47°35'04"N, 122°21'30"W.

(b) Regulations. In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person may enter or remain in the safety zone created in this rule unless authorized by the Captain

of the Port or a Designated Representative. See 33 CFR Part 165, Subpart C, for additional information and requirements. Vessel operators wishing to enter the zone during the enforcement period must request permission for entry by contacting Vessel Traffic Service Puget Sound on VHF channel 14, or the Sector Puget Sound Joint Harbor Operations Center at (206) 217-6001.

(c) Enforcement Period. The safety zone created in this rule is enforced from 2:00 a.m. to 10:00 a.m. on February 28, 2013 unless cancelled sooner by the Captain of the Port.

DATED: February 1, 2013 S. J. Ferguson
Captain, U.S. Coast Guard
Captain of the Port, Puget Sound

[FR Doc. 2013-03264 Filed 02/12/2013 at 8:45 am; Publication
Date: 02/13/2013]